

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Nevins	Team: Team # 5	CCRB Case #: 200300734	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/24/2003 11:40 PM	Location of Incident: 37th Street between 5th & 6th Ave	Precinct: 14	18 Mo. SOL 7/24/2004	EO SOL 7/24/2004	
Date/Time CV Reported Fri, 01/24/2003 11:58 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/29/2003 11:32 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Rizzo	15071	929050	MTS PCT
2. POM Steven Gansrow	23386	928345	MTS PCT
3. POM Eugene Mascari	13926	928720	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Steven Silvernail	25111	929170	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Rizzo	Abuse: Officer Peter Rizzo stopped and questioned § 87(2)(b) and an individual.	
B.POM Steven Gansrow	Abuse: Officer Steven Gansrow stopped and questioned § 87(2)(b) and an individual.	
C.POM Eugene Mascari	Abuse: Officer Eugene Mascari stopped and questioned § 87(2)(b) and an individual.	
D.POM Peter Rizzo	Abuse: Officer Peter Rizzo refused to provide his name and shield number to § 87(2)(b)	
E.POM Steven Gansrow	Abuse: Officer Steven Gansrow refused to provide his name and shield number to § 87(2)(b)	
F.POM Eugene Mascari	Abuse: Officer Eugene Mascari refused to provide his name and shield number to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Synopsis

§ 87(2)(b) a § 87(2)(b) year-old black male § 87(2)(b), alleges that three white male police officers in plainclothes from the 14th Precinct, Officer Peter Rizzo, Officer Steven Gansrow, and Officer Eugene Mascari, stopped and questioned him and his friend § 87(2)(b) last name unknown, (**Allegations A-C**) on West 37th Street between 5th Avenue and 6th Avenue in Manhattan at approximately 11:40 PM on 1/24/03. Further, the three officers refused to provide their names and shield numbers to § 87(2)(b) upon request (**Allegations D-F**). § 87(2)(b) reported the incident to IAB over the telephone directly following the incident on 1/24/03 at approximately 11:58 PM. The subsequent IAB Log (#03-02048) was referred to the CCRB on 1/29/03. § 87(2)(b) provided the name of Officer Rizzo, as well as shield numbers corresponding to Officer Rizzo and Officer Gansrow, who were working together during the incident. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Officer Peter Rizzo was terminated from the NYPD on 5/13/03. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

This case was eligible for the mediation process, yet the complainant was deemed unsuitable for this process, as he resides in California.

Summary of Complaint

January 24, 2003: § 87(2)(b) reported his complaint over the telephone to IAB at 11:58 PM on this date. § 87(2)(b) was stopped by three white male officers in plainclothes. He alleged that Officer Rizzo, shield #15601, stopped him on West 37th Street, asked him for identification and explained that there were burglaries in the area. He further alleged that Officer Rizzo made a vague threat towards him, stating, "The next time I see you I am going to have something for you." § 87(2)(b) provided shield #22386 as the number of one of the other officers who stopped him. § 87(2)(b) stated that he lives in California and would be in New York for only two weeks.

March 3, 2003: § 87(2)(b) was interviewed at § 87(2)(b) he manages on the § 87(2)(b) in Manhattan on this date. On 1/24/03 at approximately 11:40 PM, he and a friend by the name of § 87(2)(b) were leaving § 87(2)(b)'s office located at § 87(2)(b). § 87(2)(b) in order to purchase refreshments at a convenience store. § 87(2)(b) could not recall what he was wearing at the time. They proceeded west on the south side of the street. At West 37th and 6th Avenue, an unmarked gray sedan stopped on 6th Avenue at the northeast corner of the intersection and three individuals got out. They crossed the street and approached § 87(2)(b) and § 87(2)(b) saying, "Come over here" (**Allegations A-C**). § 87(2)(b) stated during the interview, "The officers never identified themselves at all. They just ran up on me. They scared me."

When the three individuals were in front of § 87(2)(b) they asked him and his companion § 87(2)(b) for identification (**Allegations A-C**). § 87(2)(b) realized they were police officers at this time. They were all white male officers in plainclothes. Two of them had their badges around their necks and one did not have his badge displayed at all. § 87(2)(b) asked this later officer, "What's the problem, Officer? Did I do anything wrong?" The officer asked for § 87(2)(b) and § 87(2)(b) to produce identification, and they complied with his request. § 87(2)(b) asked the officers why he had been stopped and was told there were "burglaries going on in the area." Both § 87(2)(b) and § 87(2)(b) were not frisked or searched. § 87(2)(g)

§ 87(2)(b) asked all three of the officers for their names and badge numbers. They did not verbally provide this information and told § 87(2)(b) to write this information down by looking at their shields (Allegations D-F). As he did not have one, § 87(2)(b) asked the officers for a pen so that he could write down their identification information. They told him they could not provide a pen as it could be used as a weapon.

§ 87(2)(b) stated the officers detained him and § 87(2)(b) for approximately thirty minutes. At no point did the officers fill out any paperwork, nor did they receive or make any radio communications. Throughout the course of the interaction the officers were laughing, acting unprofessionally and disrespectfully. The officers eventually let them go, laughing at § 87(2)(b) and § 87(2)(b) who then walked away westbound to the store. § 87(2)(b) attempted to memorize the name and shield number of one of the officers and was able to recall "Rizzo 15601."

Results of Investigation

Victim § 87(2)(b) Unknown

On 3/3/03, § 87(2)(b) refused to provide the full name or contact information of his friend § 87(2)(b) the other individual stopped by the three officers that night. He stated that § 87(2)(b) did not want to participate in the investigation.

§ 87(2)(b) provided two shield numbers to IAB. He stated that a white male officer with the last name Rizzo, shield #15601, and a white male officer with shield #22386 had stopped him. The 14th Precinct Roll Call for Tour 3 on 1/24/03 shows that Officer Peter Rizzo, shield #15071, and Officer Steven Gansrow, shield #23386, were working together on a specialized patrol in Midtown South during the incident. As § 87(2)(b) alleges that these officers refused to provide their names and shield numbers and essentially obstructed his view of their shields, it follows that the identification information § 87(2)(b) was able to obtain is inaccurate. However, the shield numbers he did provide coupled with the information on the Roll Call indicate that these officers are two of the three subjects of his allegations. Shield #22386 corresponds to Officer Dennis Rodriguez of Patrol Boro Manhattan North Task Force. As discussed below, Officer Rodriguez works with a command that does not cover the incident location, and he was not working on the date in question.

Police Officer Interviews

Subject Officer Steven Gansrow of the 14th Precinct

March 2, 2004: Officer Steven Gansrow, a white male officer with shield #23386, was interviewed at the CCRB on this date (enc. 9a-e). On 1/24/03, Officer Gansrow was working a Burglary Operation with his partner Officer Eugene Mascari from 6:00 PM until 2:35 AM on 1/25/03. This operation shifted to a Prostitution Operation later during their tour. The officers were assigned to RMP #827, a grey unmarked Chevy Impala. Officer Gansrow could not recall if he and Officer Mascari were in uniform or plainclothes. Officer Peter Rizzo was working the Burglary Operation as well, but he was not assigned to the same car as Officer Gansrow and Officer Mascari. Officer Gansrow explained that officers working the Burglary Operation would have been paired in cars and a few officers would be working on foot. On that particular evening, Officer Gansrow and Officer Mascari were driving their unmarked car around the area looking for opened doors, performing verticals and responding to any reports of burglaries.

Officer Gansrow could not recall stopping a black male individual and another male individual on West 37th Street between 5th Avenue and 6th Avenue at approximately 11:40 PM on 1/24/03. When given a brief description of the incident in question, Officer Gansrow still could not recall the stop. As he could not recall the stop, he could not say whether or not he, Officer Rizzo or any other officers present failed to provide their names and shield numbers when asked. Officer Gansrow did state, however, that in the event someone asks him for his identification information, he always verbally states his name and shield number, as required. Officer Gansrow further stated that when he is wearing plainclothes and he is stopping an individual, he would do so by taking out and displaying his shield and informing the individual that he is a

police officer by saying, "Police. May I speak with you?" Officer Gansrow could not recall if any civilian who was stopped asked him for a pen. Officer Gansrow did state that he would not typically give a pen to a civilian, particularly if he were in a threatening situation.

Officer Gansrow perused the 14th Precinct Stop and Frisk Log covering entries of the date in question and verified that there were no Stop, Question and Frisk Report Worksheets recorded regarding this particular stop. Officer Gansrow did not make any Memo Book entries pertaining to the stop.

Subject Officer Eugene Mascari of the 14th Precinct

March 2, 2004: Officer Eugene Mascari, a white male officer, was interviewed at the CCRB on this date (enc. 8a-e). On 1/24/03, Officer Mascari worked with Officer Steven Gansrow from 6:00 PM until 2:35 AM on 1/25/03. The officers were working a Burglary Operation that shifted to a Prostitution Operation later during their tour. Officer Mascari and Officer Gansrow were assigned to an unmarked grey Chevy Impala, RMP #827. He could not recall whether he was in uniform or plainclothes. Officer Mascari did not have any Memo Book entries pertaining to the incident in question. The most recent entry to the incident time of 11:40 PM was made at 10:15 PM regarding a vertical at 335 Madison Avenue. It is then noted that they were rejected entry into this building at 10:25 PM.

Officer Mascari explained that when assigned to a Burglary Operation, he would perform vertical patrols, stop individuals to determine whether or not they belong in the building and fill out Stop and Frisk Reports accordingly. Officer Mascari could not recall any reported burglaries that evening.

Officer Mascari could not recall working with Officer Peter Rizzo that evening. He could not recall stopping a black male in his thirties with another male individual on West 37th Street between 5th Avenue and 6th Avenue. He could not recall witnessing such stop carried out by Officer Rizzo, Officer Gansrow or any other officers. He did not refuse to provide his name and shield number to any inquiring individual that night and he did not witness any other officer refuse to provide this information. Officer Mascari could not recall stopping any individuals that night, informing them that there were burglaries going on in the area. He could not recall refusing to provide a pen to a civilian during a stop.

Officer Mascari perused the 14th Precinct Stop and Frisk Log covering entries of the date in question and verified that there were no Stop and Frisk Reports recorded regarding this particular stop.

Witness Officer Steven Silvernail of the 14th Precinct

March 2, 2004: Officer Steven Silvernail, a white male officer, was interviewed at the CCRB on this date (enc. 10a-e). On 1/24/03, Officer Silvernail worked with Officer Christopher Wit and Officer Laurence Neyland. The officers were assigned to a Burglary Detail from 6:00 PM until 2:35 AM on 1/25/03. The officers were in uniform and were assigned to marked RMP #1918. Officer Silvernail did not have any Memo Book entries pertinent to the incident in question. He noted that he made an entry at 11:26 PM regarding the issuance of a C-Summons. He completed this summons at 11:30 PM. He could not recall the location of this incident.

Officer Silvernail looked at the 14th Precinct Roll Call for Tour 3 and noted that he could have been working with any of the officers assigned to the Burglary Operation at any given time that night. Officer Silvernail could not recall which officers were assigned to unmarked vehicles or were working in plainclothes that night.

Officer Silvernail could not recall stopping a black male in his thirties and another male individual on West 37th Street between 5th Avenue and 6th Avenue at approximately 11:40 PM on 1/24/03. He could not recall witnessing such stop carried out by Officer Peter Rizzo, Officer Steven Gansrow, Officer Eugene Mascari or any other officers. He did not refuse to provide his name and shield number to any inquiring civilians. He did not witness any other officers refusing such information that night.

Officer Silvernail did recall that there were no reported robberies that night. He could not recall stopping any individuals and stating that "there were burglaries going on in the area." He did state that informing a stopped individual such information would be according to procedure.

Subject Officer Peter Rizzo, formerly of the 14th Precinct

Officer Rizzo was terminated from the NYPD on 5/13/03 (enc. 12) and was not interviewed for the investigation. As noted above, while Officer Rizzo was a member of the force he had shield #15071, a shield number not differing greatly from the shield number § 87(2)(b) assigned to the “Officer Rizzo” involved in the incident.

Officer Dennis Rodriguez of Patrol Boro Manhattan North Task Force

Officer Rodriguez has shield #22386, the second number § 87(2)(b) provided to IAB. However, Officer Rodriguez’ command, Patrol Boro Manhattan North Task Force, does not cover the incident location, and according to his Memo Book (enc. 11a-c), he was not working on the date of the incident. Officer Rodriguez was not interviewed for the investigation.

Police Department Documents**14th Precinct SPRINT Index**

The 14th Precinct SPRINT Index for 1/24/03 (enc. 13) shows that there was one report of a burglary in progress at 10:55 PM at 136 West 32nd Street. This report was unfounded. There are no other reports of burglaries between 9:45 PM on 1/24/03 and 1:30 AM on 1/25/03. The Index verifies the vertical patrol attempted by Officer Gansrow and Officer Mascari in RMP #827 at 335 Madison Avenue at 10:16 PM.

14th Precinct Roll Call

According to the 14th Precinct Roll Call for Tour 3 on 1/24/03 (enc. 14a-q), Officer Rizzo, Officer Gansrow, Officer Mascari, Officer Silvernail and Officer Neyland worked from 6:00 PM on 1/24/03 until 2:35 AM on 1/25/03. Officer Wit worked on 1/24/03 from 1:00 PM until 9:35 PM. The officers were assigned to various robbery posts, as well as a detail noted on the Roll Call as “PROS OP.” According to officers at the 14th Precinct, this notation indicates a “Prostitution Operation,” as these posts cover an area of high prostitution crime.

Stop, Question and Frisk Index Coversheet

There are no Stop, Question and Frisk Report Worksheets reported on the 14th Precinct Stop, Question and Frisk Index Coversheet (enc. 15a-d) for § 87(2)(b) or an individual by the name of § 87(2)(b) on 1/24/03.

Civilian Criminal Conviction History and Subject Officer CCRB History

Due to the fact that § 87(2)(b) is a common last name, § 87(2)(b)’s criminal record could not be determined. According to BADS, § 87(2)(b) was not arrested in New York City within six months prior to the incident.

Officer Gansrow and Officer Mascari are both in their second years in the force. They and Officer Rizzo have no previously substantiated CCRB allegations (enc. 1-3).

Conclusions and Recommendations**Officer Identification**

§ 87(2)(b) was not available to look at photographs. However, he provided Officer Rizzo’s name and approximate shield number, Officer Gansrow’s approximate shield number and he stated that the officers who stopped him were three white male officers in plainclothes driving an unmarked grey sedan. These officers referred to “burglaries in the area” when they spoke with § 87(2)(b). § 87(2)(b) reported the incident to IAB immediately over the telephone. Though he did not provide any identification information for Officer Mascari, § 87(2)(b) did state that one officer did not have his shield readily displayed. Further, Officer Gansrow and Officer Mascari stated that they were partners that evening. Considering all of these factors, it is evident that § 87(2)(b) was stopped by Officer Rizzo, Officer Gansrow and Officer Mascari. § 87(2)(g)

§ 87(2)(g)

Established Facts

§ 87(2)(b) and his friend § 87(2)(b) were stopped by Officer Rizzo, Officer Gansrow and Officer Mascari on 1/24/03 at approximately 11:40 PM on West 37th Street between 5th Avenue and 6th Avenue. Officer Gansrow and Officer Mascari were driving a grey unmarked sedan. § 87(2)(b) was questioned by the officers, and no Stop, Question and Frisk Report Worksheets were prepared for either § 87(2)(b) or his friend.

Issues in Dispute

§ 87(2)(g)

Credibility

§ 87(2)(g)

Allegation A: Abuse of Authority: Officer Peter Rizzo stopped and questioned § 87(2)(b) and an individual

Allegation D: Abuse of Authority: Officer Peter Rizzo refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleges that Officer Rizzo stopped and questioned him and that Officer Rizzo refused to provide his name and shield number. As documented, Officer Rizzo was terminated from the force on 5/13/03. § 87(2)(g)

Allegation B: Abuse of Authority: Officer Steven Gansrow stopped and questioned § 87(2)(b) and an individual

Allegation C: Abuse of Authority: Officer Eugene Mascari stopped and questioned § 87(2)(b) and an individual

§ 87(2)(b) alleges that Officer Gansrow and Officer Mascari stopped and questioned him. § 87(2)(g)

He provided an accurate description of the officers' vehicle. He provided Officer Gansrow's approximate shield number (as well as Officer Rizzo's name and approximate shield number). § 87(2)(b) stated that the officers who stopped him told him there were burglaries going on in the area. The SPRINT Index for that time period confirms that there was at least one report of a burglary. Officer Gansrow and Officer Mascari both testified that they were working a Burglary Operation in the area. § 87(2)(g)

Allegation F: Abuse of Authority: Officer Eugene Mascari refused to provide his name and shield number to § 87(2)(b)

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

Date:

Date:

Date:

Date: